

GREAT LAKES FISH AND WILDLIFE RESTORATION ACT OF 1990

[Public Law 101-537]

[As Amended Through P.L. 117–287, Enacted December 27, 2022]

【Currency: This publication is a compilation of the text of title I of Public Law 101–537. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT To authorize a study of the fishery resources of the Great Lakes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—GREAT LAKES FISH AND WILDLIFE RESTORATION

SECTION 1001. SHORT TITLE.

This title may be cited as the “Great Lakes Fish and Wildlife Restoration Act of 1990”.

【16 U.S.C. 941 nt】

SEC. 1002. [16 U.S.C. 941] FINDINGS.

Congress finds that—

(1) the Great Lakes have fish and wildlife communities that are structurally and functionally changing;

(2) successful fish and wildlife management focuses on the lakes as ecosystems, and effective management requires the coordination and integration of efforts of many partners;

(3) additional actions and better coordination are needed to protect and effectively manage the fish and wildlife resources, and the habitats on which the resources depend, in the Great Lakes Basin; and

(4) this Act allows Federal agencies, States, and Indian tribes to work in an effective partnership by providing the funding for restoration work.

SEC. 1003. [16 U.S.C. 941a] PURPOSE.

The purposes of this title are—

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(1) to develop and implement proposals for the restoration of fish and wildlife resources in the Great Lakes Basin; and

(2) to provide assistance to the Great Lakes Fisheries Commission, States, Indian Tribes, and other interested entities to encourage cooperative conservation, restoration and management of the fish and wildlife resources and their habitat in the Great Lakes Basin.

SEC. 1004. [16 U.S.C. 941b] DEFINITIONS.

In this title—

(1) the term “Committee” means the Great Lakes Fish and Wildlife Restoration Proposal Review Committee established by section 1005(c);

(2) the term “Director” means the Director of the United States Fish and Wildlife Service;

(3) the term “Great Lakes Basin” means the air, land, water, and living organisms within the drainage basin of the Saint Lawrence River at or upstream from the point at which the river becomes the international boundary between Canada and the United States;

(4) the term “Indian Tribe” means any Indian tribe, band, village, nation, or other organized group or community that is recognized by the Bureau of Indian Affairs as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and that has Great Lakes fish and wildlife management authority in the Great Lakes Basin;

(5) the term “lower Great Lakes” means the region in which is located that portion of the Great Lakes Basin which is downstream from the confluence of the Saint Clair River and Lake Huron near Port Huron, Michigan;

(6) the term “non-Federal source” includes a State government, local government, Indian tribe, other non-Federal governmental entity, private entity, and individual;

(7) the term “nonindigenous species” means a species of plant, animal, or other organism that did not occur in the Great Lake Basin before European colonization of North America;

(8) the term “regional project” means authorized activities of the United States Fish and Wildlife Service related to fish and wildlife resource protection, restoration, maintenance, and enhancement impacting multiple States or Indian Tribes with fish and wildlife management authority in the Great Lakes basin;

(9) the term “Report” means the United States Fish and Wildlife Service report entitled “Great Lakes Fishery Resources Restoration Study”, submitted to the President of the Senate and the Speaker of the House of Representatives on September 13, 1995;

(10) the term “restoration” means rehabilitation and maintenance of the structure, function, diversity, and dynamics of a biological system, including reestablishment of self-sustaining populations of fish and wildlife;

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(11) the term “State Director” means the head of the agency, department, board, commission, or other governmental entity of each of the States of New York, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, and the Commonwealth of Pennsylvania which is responsible for the management and conservation of the fish and wildlife resources of that State; and

(12) the term “upper Great Lakes” means that portion of the Great Lakes Basin which is upstream from the confluence of the Saint Clair River and Lake Huron near Port Huron, Michigan.

SEC. 1005. [16 U.S.C. 941c] IDENTIFICATION, REVIEW, AND IMPLEMENTATION OF PROPOSALS AND REGIONAL PROJECTS.

(a) IN GENERAL.—Subject to subsection (b)(2), the Director—

(1) shall encourage the development and, subject to the availability of appropriations, the implementation of fish and wildlife restoration proposals and regional projects based on the results of the Report; and

(2) in cooperation with the State Directors and Indian Tribes, shall identify, develop, and, subject to the availability of appropriations, implement regional projects in the Great Lakes Basin to be administered by Director in accordance with this section.

(b) IDENTIFICATION OF PROPOSALS AND REGIONAL PROJECTS.—

(1) REQUEST BY THE DIRECTOR.—The Director shall annually request that State Directors and Indian Tribes, in cooperation or partnership with other interested entities and in accordance with subsection (a), submit proposals or regional projects for the restoration of fish and wildlife resources.

(2) REQUIREMENTS FOR PROPOSALS AND REGIONAL PROJECTS.—A proposal or regional project under paragraph (1) shall be—

(A) submitted in the manner and form prescribed by the Director; and

(B) consistent with—

(i) the goals of the Great Lakes Water Quality Agreement, as amended;

(ii) the 1954 Great Lakes Fisheries Convention;

(iii) the 1980 Joint Strategic Plan for Management of Great Lakes Fisheries, as revised in 1997, and Fish Community Objectives for each Great Lake and connecting water as established under the Joint Strategic Plan;

(iv) the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 et seq.);

(v) the North American Waterfowl Management Plan and joint ventures established under the plan;

(vi) the strategies outlined through the Great Lakes Regional Collaboration authorized under Executive Order 13340 (69 Fed. Reg. 29043; relating to the Great Lakes Interagency Task Force);

(vii) the strategic action plan of the Great Lakes Restoration Initiative; and

(viii) each applicable State wildlife action plan.

(3) SEA LAMPREY AUTHORITY.—The Great Lakes Fishery Commission shall retain authority and responsibility to formulate and implement a comprehensive program to eradicate or minimize sea lamprey populations in the Great Lakes Basin.

(c) REVIEW OF PROPOSALS.—

(1) ESTABLISHMENT OF COMMITTEE.—There is established the Great Lakes Fish and Wildlife Restoration Proposal Review Committee, which shall operate under the guidance of the United States Fish and Wildlife Service.

(2) MEMBERSHIP AND APPOINTMENT.—

(A) IN GENERAL.—The Committee shall consist of 2 representatives of each of the State Directors and Indian Tribes, of whom—

(i) 1 representative shall be the individual appointed by the State Director or Indian Tribe to the Council of Lake Committees of the Great Lakes Fishery Commission; and

(ii) 1 representative shall have expertise in wildlife management.

(B) APPOINTMENTS.—Each representative shall serve at the pleasure of the appointing State Director or Tribal Chair.

(C) OBSERVER.—The United States Fish and Wildlife Service shall participate as an observer of the Committee.

(D) RECUSAL.—A member of the Committee shall recuse himself or herself from consideration of proposals that the member, or the entity that the member represents, has submitted.

(3) FUNCTIONS.—The Committee shall—

(A) meet at least annually;

(B) review proposals and regional projects developed in accordance with subsection (b) to assess the effectiveness and appropriateness of the proposals and regional projects in fulfilling the purposes of this title; and

(C) recommend to the Director any of those proposals and regional projects that should be funded and implemented under this section.

(d) IMPLEMENTATION OF PROPOSALS AND REGIONAL PROJECTS.—

(1) IN GENERAL.—After considering recommendations of the Committee and the goals specified in section 1006, the Director shall—

(A) select proposals and regional projects to be implemented; and

(B) subject to the availability of appropriations and subsection (e), fund implementation of the proposals and regional projects.

(2) SELECTION CRITERIA.—In selecting and funding proposals and regional projects, the Director shall take into account the effectiveness and appropriateness of the proposals and regional projects in fulfilling the purposes of other laws applicable to restoration of the fish and wildlife resources and habitat of the Great Lakes Basin.

(e) COST SHARING.—

(1) IN GENERAL.—

(A) NON-FEDERAL SHARE.—Except as provided in paragraphs (3) and (5) and subject to paragraph (2), not less than 25 percent of the cost of implementing a proposal or regional project selected under subsection (d) (excluding the cost of establishing sea lamprey barriers) shall be paid in cash or in-kind contributions by non-Federal sources.

(B) TIME PERIOD FOR PROVIDING MATCH.—The non-Federal share of the cost of implementing a proposal or regional project required under subparagraph (A) may be provided at any time during the 2-year period preceding January 1 of the year in which the Director receives the application for the proposal or regional project.

(2) AUTHORIZED SOURCES OF NON-FEDERAL SHARE.—

(A) IN GENERAL.—The Director may determine the non-Federal share under paragraph (1) by taking into account—

- (i) the appraised value of land or a conservation easement as described in subparagraph (B); or
- (ii) as described in subparagraph (C), the costs associated with—
 - (I) securing a conservation easement; and
 - (II) restoration or enhancement of the conservation easement.

(B) APPRAISAL OF CONSERVATION EASEMENT.—

(i) IN GENERAL.—The value of a conservation easement may be used to satisfy the non-Federal share of the cost of implementing a proposal or regional project required under paragraph (1)(A) if the Director determines that the conservation easement—

- (I) meets the requirements of subsection (b)(2);
 - (II) is acquired before the end of the grant period of the proposal or regional project;
 - (III) is held in perpetuity for the conservation purposes of the programs of the United States Fish and Wildlife Service related to the Great Lakes Basin, as described in section 1006, by an accredited land trust or conservancy or a Federal, State, or tribal agency;
 - (IV) is connected either physically or through a conservation planning process to the proposal or regional project; and
 - (V) is appraised in accordance with clause (ii).
- (ii) APPRAISAL.—With respect to the appraisal of a conservation easement described in clause (i)—
- (I) the appraisal valuation date shall be not later than 1 year after the price of the conservation easement was set under a contract; and
 - (II) the appraisal shall—
 - (aa) conform to the Uniform Standards of Professional Appraisal Practice (USPAP); and
 - (bb) be completed by a Federal- or State-certified appraiser.

(C) COSTS OF SECURING CONSERVATION EASEMENTS.—

(i) IN GENERAL.—All costs associated with securing a conservation easement and restoration or enhancement of that conservation easement may be used to satisfy the non-Federal share of the cost of implementing a proposal or regional project required under paragraph (1)(A) if the activities and expenses associated with securing the conservation easement and restoration or enhancement of that conservation easement meet the requirements of subparagraph (B)(i).

(ii) INCLUSION.—The costs referred to in clause (i) may include cash, in-kind contributions, and indirect costs.

(iii) EXCLUSION.—The costs referred to in clause (i) may not be costs associated with mitigation or litigation (other than costs associated with the Natural Resource Damage Assessment program).

(3) REGIONAL PROJECTS.—Regional projects selected under subsection (d) shall be exempt from cost sharing if the Director determines that the authorization for the project does not require a non-Federal cost-share.

(4) EXCLUSION OF FEDERAL FUNDS FROM NON-FEDERAL SHARE.—The Director may not consider the expenditure, directly or indirectly, of Federal funds received by any entity to be a contribution by a non-Federal source for purposes of this subsection.

(5) EFFECT ON CERTAIN INDIAN TRIBES.—Nothing in this subsection affects an Indian tribe affected by an alternative applicable cost sharing requirement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

SEC. 1006. [16 U.S.C. 941d] GOALS OF UNITED STATES FISH AND WILDLIFE SERVICE PROGRAMS RELATED TO GREAT LAKES FISH AND WILDLIFE RESOURCES.

In administering programs of the United States Fish and Wildlife Service related to the Great Lakes Basin, the Director shall seek to achieve the following goals:

(1) Restoring and maintaining self-sustaining fish and wildlife resources.

(2) Minimizing the impacts of contaminants on fishery and wildlife resources.

(3) Protecting, maintaining, and, where degraded and destroyed, restoring fish and wildlife habitat, including the enhancement and creation of wetlands that result in a net gain in the amount of those habitats.

(4) Stopping illegal activities adversely impacting fishery and wildlife resources.

(5) Restoring threatened and endangered species to viable, self-sustaining levels.

(6) Protecting, managing, and conserving migratory birds.

SEC. 1007. [16 U.S.C. 941e] ESTABLISHMENT OF OFFICES.

(a) LOWER GREAT LAKES FISH AND WILDLIFE CONSERVATION OFFICE.—

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(1) IN GENERAL.—The Director shall establish an office with necessary administrative and technical support services to carry out all United States Fish and Wildlife Service operational activities related to fishery resource protection, restoration, maintenance, and enhancement in the Lower Great Lakes.

(2) NAME AND LOCATION.—The office shall be known as the “Lower Great Lakes Fish and Wildlife Conservation Office”, and shall be centrally located in the lower Great Lakes so as to facilitate fishery resource restoration and enhancement activities relating to the lower Great Lakes.

(3) RESPONSIBILITIES.—The responsibilities of the Lower Great Lakes Fish and Wildlife Conservation Office shall include operational activities of the United States Fish and Wildlife Service related to fishery resource protection, restoration, maintenance, and enhancement in the Lower Great Lakes.

(b) UPPER GREAT LAKES FISH AND WILDLIFE CONSERVATION OFFICES.—

(1) IN GENERAL.—The Director shall establish one or more offices with necessary administrative and technical support services to carry out United States Fish and Wildlife Service operational activities related to fishery resource protection, restoration, maintenance, and enhancement in the upper Great Lakes.

(2) NAME AND LOCATION.—Each of the offices shall be known as an “Upper Great Lakes Fish and Wildlife Conservation Office”, and shall be appropriately located so as to facilitate fishery resource activities in the upper Great Lakes.

(3) RESPONSIBILITIES.—The responsibilities of the Upper Great Lakes Fish and Wildlife Conservation Offices shall include operational activities of the United States Fish and Wildlife Service related to fishery resource protection, restoration, maintenance, and enhancement in the Upper Great Lakes.

SEC. 1008. [16 U.S.C. 941f] REPORTS.

(a) IN GENERAL.—Not later than December 31, 2021, and not later than December 31, 2027, the Director shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes, with respect to the period covered by the report—

(1) actions taken to solicit and review proposals under section 1005;

(2) the results of proposals implemented under section 1005; and

(3) progress toward the accomplishment of the goals specified in section 1006.

(b) PUBLIC ACCESS TO DATA.—For each of fiscal years 2023 through 2028, the Director shall make available through a public access website of the Department information that describes—

(1) actions taken to solicit and review proposals under section 1005;

(2) the results of proposals implemented under section 1005;

(3) progress toward the accomplishment of the goals specified in section 1006;

(4) the priorities proposed for funding in the annual budget process under this title; and

(5) actions taken in support of the Great Lakes Restoration Initiative Action Plan based on the recommendations of the Great Lakes Regional Collaboration authorized under Executive Order 13340 (69 Fed. Reg. 29043; relating to the Great Lakes Interagency Task Force).

(c) CONTINUED MONITORING AND ASSESSMENT OF STUDY FINDINGS AND RECOMMENDATIONS.—The Director—

(1) shall continue to monitor the status, and the assessment, management, and restoration needs, of the fish and wildlife resources of the Great Lakes Basin; and

(2) may reassess and update, as necessary, the findings and recommendations of the Report.

SEC. 1009. [16 U.S.C. 941g] AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Director for each of fiscal years 2023 through 2028—

(1) \$6,000,000 to implement fish and wildlife restoration proposals as selected by the Director under section 1005(e), of which—

(A) not more than the lesser of 33 1/3 percent or \$2,000,000 may be allocated to implement regional projects by the United States Fish and Wildlife Service, as selected by the Director under section 1005(e); and

(B) the lesser of 3 percent or \$300,000 shall be allocated to the United States Fish and Wildlife Service to cover costs incurred in administering the proposals by any entity; and

(2) \$2,000,000, which shall be allocated for the activities of the Upper Great Lakes Fish and Wildlife Conservation Offices and the Lower Great Lakes Fish and Wildlife Conservation Office under section 1007.

(b) PROHIBITION ON USE OF FUNDS FOR FEDERAL ACQUISITION OF INTERESTS IN LAND.—No funds appropriated or used to carry out this Act may be used for acquisition by the Federal Government of any interest in land.